

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL
Special District Local
Laws Code
Chapter 11007
9/18/14

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32	SUBCHAPTER A. GENERAL PROVISIONS		
33	<u>Revised Law</u>		
34	Sec. 11007.001.	DEFINITIONS. In this chapter:	

1 (1) "Board" means the board of directors of the
2 district.

3 (2) "Bond" means a bond or note.

4 (3) "Director" means a member of the board.

5 (4) "District" means the West Jefferson County
6 Municipal Water District. (Acts 65th Leg., R.S., Ch. 337, Secs. 1
7 (part), 4(a) (part), 15(a) (part); New.)

8 Source Law

9 Sec. 1. . . . [a . . . district] . . . to be
10 known as "West Jefferson County Municipal Water
11 District" (the "district"),

12 Sec. 4. (a) [The district shall be governed by
13 a board of directors] (the "board")

14 Sec. 15. (a) . . . [bonds or notes]
15 (hereinafter called "bonds").

16 Revisor's Note

17 The definition of "director" is added to the
18 revised law for drafting convenience and to eliminate
19 frequent, unnecessary repetition of the substance of
20 the definition.

21 Revised Law

22 Sec. 11007.002. NATURE OF DISTRICT. The district is a
23 conservation and reclamation district in Jefferson County created
24 under Section 59, Article XVI, Texas Constitution. (Acts 65th
25 Leg., R.S., Ch. 337, Sec. 1 (part).)

26 Source Law

27 Sec. 1. Under and pursuant to the provisions of
28 Article XVI, Section 59, of the Texas Constitution, a
29 conservation and reclamation district may be created
30 and established in Jefferson County, Texas, in the
31 manner provided in Section 1A of this Act,

32 Revisor's Note

33 (1) Section 1, Chapter 337, Acts of the 65th
34 Legislature, Regular Session, 1977, provides that the
35 district "may be" created "in the manner provided in
36 Section 1A of this Act." Section 1A, Chapter 337, Acts
37 of the 65th Legislature, Regular Session, 1977,
38 provides for an election to confirm the creation of the

1 district. The revised law omits as executed the
2 references to the authority to create the district and
3 to Section 1A because the district has been created.

4 (2) Section 1, Chapter 337, Acts of the 65th
5 Legislature, Regular Session, 1977, provides that the
6 district may be "created and established" in Jefferson
7 County, Texas. The revised law omits "established"
8 because the meaning of that word is included in the
9 meaning of "created."

10 Revised Law

11 Sec. 11007.003. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

12 (a) The district is created to serve a public use and benefit.

13 (b) All land and other property in the district will benefit
14 from the works and projects to be accomplished by the district under
15 the powers conferred by Section 59, Article XVI, Texas
16 Constitution.

17 (c) The accomplishment of the purposes stated in this
18 chapter will benefit the people of this state and improve their
19 properties and industries. The district, in carrying out the
20 purposes of this chapter, will be performing an essential public
21 function under the constitution of this state. (Acts 65th Leg.,
22 R.S., Ch. 337, Secs. 3, 22 (part).)

23 Source Law

24 Sec. 3. It is determined and found that all of
25 the land and other property included within the
26 boundaries of the district will be benefited by the
27 works and project which are to be accomplished by the
28 district pursuant to the powers conferred by the
29 provisions of Article XVI, Section 59, of the Texas
30 Constitution, and that said district was and is
31 created to serve a public use and benefit.

32 Sec. 22. The accomplishment of the purposes
33 stated in this Act is for the benefit of the people of
34 this state and for the improvement of their properties
35 and industries, and the district, in carrying out the
36 purposes of this Act, will be performing an essential
37 public function under the constitution. . . .

38 Revised Law

39 Sec. 11007.004. LIBERAL CONSTRUCTION OF CHAPTER. This
40 chapter shall be liberally construed to effect the purposes,

1 powers, rights, and functions stated in this chapter. (Acts 65th
2 Leg., R.S., Ch. 337, Sec. 23 (part).)

3 Source Law

4 Sec. 23. . . . All of the terms and provisions
5 of this Act are to be liberally construed to effectuate
6 the purposes, powers, rights, functions, and
7 authorities herein set forth.

8 Revisor's Note

9 Section 23, Chapter 337, Acts of the 65th
10 Legislature, Regular Session, 1977, refers to the
11 "powers" and "authorities" stated by the act.
12 Throughout this chapter, the revised law omits
13 "authority" and "authorities" in this context as
14 included in the meaning of "power" and "powers."

15 Revised Law

16 Sec. 11007.005. DISTRICT TERRITORY. (a) The district is
17 composed of the territory described by Section 1, Chapter 337, Acts
18 of the 65th Legislature, Regular Session, 1977, as that territory
19 may have been modified under:

20 (1) Subsection (c) or its predecessor statute, Section
21 2, Chapter 337, Acts of the 65th Legislature, Regular Session,
22 1977;

23 (2) Subchapter H, Chapter 54, Water Code;

24 (3) Subchapter J, Chapter 49, Water Code; or

25 (4) other law.

26 (b) The boundaries of the district form a closure. A
27 mistake in copying the field notes in the legislative process or
28 another mistake in the field notes does not affect:

29 (1) the district's organization, existence, or
30 validity;

31 (2) the district's right to issue bonds or to pay the
32 principal of and interest on the bonds;

33 (3) the district's right to impose a tax; or

34 (4) the legality or operation of the district or the
35 board.

1 (c) The board may redefine the boundaries of the district to
2 correct any mistake in the field notes appearing in Section 1,
3 Chapter 337, Acts of the 65th Legislature, Regular Session, 1977.
4 (Acts 65th Leg., R.S., Ch. 337, Sec. 2; New.)

5 Source Law

6 Sec. 2. It is expressly determined, and the
7 legislature hereby finds that the boundaries of said
8 district form a closure, and if any mistake is made in
9 copying the field notes in the legislative process, or
10 otherwise a mistake is found to have occurred in the
11 field notes, it shall in no way or manner affect the
12 organization, existence, or validity of said district,
13 or its right to issue bonds or refunding bonds, or to
14 pay the principal and interest thereon, or the right to
15 assess, levy, and collect taxes, or in any other manner
16 affect the legality or operation of the district or its
17 governing body. The board of directors of the district
18 shall have the power to redefine the boundaries of the
19 district so as to correct any mistake found to exist in
20 the field notes appearing in Section 1 of this Act.

21 Revisor's Note

22 (1) The revision of the law governing the
23 district does not revise the statutory language
24 describing the territory of the district to avoid the
25 lengthy recitation of the description and because that
26 description may not be accurate on the effective date
27 of the revision or at the time of a later reading. For
28 the reader's convenience, the revised law includes
29 references to the statutory description of the
30 district's territory and to the authority to change the
31 district's territory under Section 2 of the district's
32 enabling legislation, under Subchapter H, Chapter 54,
33 Water Code, applicable to the district under Section
34 14, Chapter 337, Acts of the 65th Legislature, Regular
35 Session, 1977, and under Subchapter J, Chapter 49,
36 Water Code, applicable to the district under Sections
37 49.001 and 49.002 of that chapter. The revised law
38 also includes a reference to the general authority of
39 the legislature to enact other law to change the
40 district's territory.

41 (2) Section 2, Chapter 337, Acts of the 65th

1 Legislature, Regular Session, 1977, provides that a
2 mistake does not affect the right of the district to
3 issue "bonds or refunding bonds." The revised law
4 omits the reference to "refunding bonds" because
5 refunding bonds are included in the meaning of
6 "bonds."

7 (3) Section 2, Chapter 337, Acts of the 65th
8 Legislature, Regular Session, 1977, refers to the
9 district's right to "assess, levy, and collect" a tax.
10 Throughout this chapter, the revised law substitutes
11 "impose" for "assess," "levy," and "collect" because
12 "impose" is the term generally used in Title 1, Tax
13 Code, and includes the assessment, levying, and
14 collection of a tax.

15 (4) Section 14, Chapter 337, Acts of the 65th
16 Legislature, Regular Session, 1977, provides that
17 territory may be annexed to or excluded from the
18 district as provided for a municipal utility district
19 by Section 54.701 et seq., Water Code. The revised law
20 omits the provision as unnecessary. Sections
21 54.701-54.727, Water Code, were repealed by Section
22 43, Chapter 715, Acts of the 74th Legislature, Regular
23 Session, 1995. Section 2 of that act added Chapter 49,
24 Water Code, including Subchapter J of that chapter,
25 which now provides for the annexation or exclusion of
26 territory by certain conservation and reclamation
27 districts. A reference to Subchapter J, Chapter 49,
28 Water Code, however, is not required because Chapter
29 49, Water Code, applies to the district under Sections
30 49.001 and 49.002. The omitted law reads:

31 Sec. 14. Territory may be added to or
32 excluded from the district in the manner
33 provided for municipal utility districts in
34 Chapter 54, Subchapter H, Section 54.701 et
35 seq., of the Water Code.

1 Revisor's Note
2 (End of Subchapter)

3 Section 1A, Chapter 337, Acts of the 65th
4 Legislature, Regular Session, 1977, provides for the
5 initial directors to hold an election to confirm the
6 district's creation. Because the district's creation
7 has been confirmed, the revised law omits as executed
8 Section 1A. The omitted law reads:

9 Sec. 1A. (a) Within 30 days
10 following the effective date of this Act,
11 the initial board of directors of the
12 district shall issue an order calling an
13 election in the proposed district to
14 approve the creation of the district. The
15 district is not considered to be officially
16 created unless approved by a majority of the
17 qualified voters at this election.

18 (b) The ballots for the election
19 shall be printed to provide for voting for
20 or against the proposition: "Creation of
21 the West Jefferson County Municipal Water
22 District."

23 (c) The election shall be conducted
24 and notice shall be given as provided in
25 Subchapter E, Water Code. Except as
26 specifically provided in this section and
27 in Subchapter E, Water Code, the election
28 shall be conducted as provided in the Texas
29 Election Code, as amended.

30 (d) The provisions of Section 9b,
31 Texas Election Code, as added (Article
32 2.01b, Vernon's Texas Election Code), do not
33 apply to the creation election held under
34 this section.

35 (e) If a majority of those voting at
36 the election vote in favor of the creation
37 of the district, the district is created and
38 ratified, but if a majority of those voting
39 at the election vote against the creation of
40 the district, the district is not created
41 and may not exercise any of the authority
42 under this Act.

43 SUBCHAPTER B. BOARD OF DIRECTORS

44 Revised Law

45 Sec. 11007.051. COMPOSITION OF BOARD; TERMS. (a) The
46 district is governed by a board of seven elected directors, each of
47 whom occupies a numbered place on the board.

48 (b) Directors serve staggered terms.

49 (c) Director elections must be held in the manner provided
50 in the Water Code for municipal utility districts. (Acts 65th Leg.,
51 R.S., Ch. 337, Sec. 4(a) (part).)

Source Law

Sec. 4. (a) The district shall be governed by a board of directors [(the "board")] having seven members. . . . who shall occupy places on the board to be designated as Places 1, 2, 3, 4, 5, 6, and 7, respectively. . . . directors shall be elected by the resident qualified electors of the district for staggered two-year terms at elections held in the manner provided for municipal utility districts in Chapter 54 of the Water Code. . . .

Revisor's Note

(1) Section 4(a), Chapter 337, Acts of the 65th Legislature, Regular Session, 1977, states that directors are elected "by the resident qualified electors of the district." The revised law omits the quoted language because Chapter 11, Election Code, governs eligibility to vote in an election in this state and allows only qualified electors (or "voters" under the terminology of the Election Code) who are residents of the territory covered by the election to vote in an election.

(2) Section 4(a), Chapter 337, Acts of the 65th Legislature, Regular Session, 1977, provides that directors are elected for two-year terms at elections held in the manner provided for municipal utility districts under Chapter 54, Water Code. The revised law omits the reference to two-year terms and to Chapter 54 because Chapter 715, Acts of the 74th Legislature, Regular Session, 1995, repealed the relevant provisions of Chapter 54, Water Code, and enacted Section 49.103, Water Code, which governs the election of directors of municipal utility districts and specifies four-year terms. A reference to Section 49.103, Water Code, is unnecessary because that section applies to the district on its own terms.

Throughout this chapter, the revised law omits law that is superseded by Chapter 49, Water Code, or that duplicates law contained in that chapter.

Chapter 49, Water Code, applies to the district under Sections 49.001 and 49.002 of that chapter.

(3) Section 4(a), Chapter 337, Acts of the 65th Legislature, Regular Session, 1977, provides that directors hold office until their terms expire and until their successors have been elected and qualified. The revised law omits the reference to a director serving until a successor is elected and qualified because it duplicates Section 17, Article XVI, Texas Constitution, which provides that an officer in this state continues to perform the officer's official duties until a successor has qualified. The revised law also omits the provision for serving until the term expires because holding office until the expiration of the term is implied or inherent in the concept of a term of office, and Section 17, Article XVI, Texas Constitution, applies regardless of whether the term has ended. The omitted law reads:

(a) . . . Each director shall hold office until the expiration of his term and thereafter until his successor is elected and qualified. . . .

Revised Law

Sec. 11007.052. QUALIFICATIONS FOR OFFICE. To be eligible to be elected or to serve as a director, a person must be a resident, qualified voter of the district. (Acts 65th Leg., R.S., Ch. 337, Sec. 4(b).)

Source Law

(b) To be eligible to be elected or to serve as a director, a person must be a resident, qualified elector of the State of Texas and of the district.

Revisor's Note

(1) Section 4(b), Chapter 337, Acts of the 65th Legislature, Regular Session, 1977, refers to an "elector" of the district. Throughout this chapter,

1 the revised law substitutes "voter" for "elector"
2 because the terms are synonymous and "voter" is the
3 term used in the Election Code.

4 (2) Section 4(b), Chapter 337, Acts of the 65th
5 Legislature, Regular Session, 1977, requires a
6 director to be a qualified elector (or "voter" under
7 the terminology of the Election Code (see Revisor's
8 Note (1) to this section)) of the State of Texas and of
9 the district. The revised law omits as unnecessary the
10 reference to the State of Texas because Section
11 11.002(a)(5), Election Code, provides that a qualified
12 voter must be "a resident of this state."

13 Revised Law

14 Sec. 11007.053. BOARD RESOLUTIONS; VOTING REQUIREMENTS.

15 (a) The district shall act through orders or resolutions adopted by
16 the board.

17 (b) All directors are entitled to vote.

18 (c) The affirmative vote of a majority of the directors in
19 attendance, but not fewer than four directors, is necessary to
20 adopt an order or resolution. (Acts 65th Leg., R.S., Ch. 337, Sec.
21 4(g).)

22 Source Law

23 (g) Any four directors shall constitute a
24 quorum, and all directors shall be entitled to vote.
25 The district shall act and proceed by and through
26 orders or resolutions adopted by the board, and the
27 affirmative vote of a majority of the directors in
28 attendance (but in no event less than four directors)
29 shall be necessary to adopt any order or resolution.

30 Revisor's Note

31 Section 4(g), Chapter 337, Acts of the 65th
32 Legislature, Regular Session, 1977, provides that any
33 four directors on the board constitute a quorum. The
34 revised law omits that provision because four is the
35 number of directors required for a majority from a
36 group of seven and therefore the provision duplicates
37 in substance Section 49.053, Water Code, which

1 provides that a majority of a board constitutes a
2 quorum.

3 Revised Law

4 Sec. 11007.054. OFFICERS AND ASSISTANTS. (a) The board
5 shall elect a president, vice president, secretary, and treasurer.

6 (b) The board shall elect the president and vice president
7 from among the directors.

8 (c) The president serves for a one-year term.

9 (d) The offices of secretary and treasurer:

10 (1) may be held by one person; and

11 (2) are not required to be held by a director.

12 (e) The board may appoint one or more assistant officers who
13 are not required to be directors. (Acts 65th Leg., R.S., Ch. 337,
14 Sec. 4(f) (part).)

15 Source Law

16 (f) The board shall elect one of the directors
17 as president of the board, who shall serve for a term
18 of one year and The board shall elect another
19 of the directors as vice-president of the board,
20 The board shall elect a secretary of the
21 board, . . . and shall elect a treasurer of the board,
22 The offices of secretary and treasurer may be
23 held by one person, and the holder or holders of such
24 office or offices need not be a director. The board
25 may appoint one or more persons, who need not be
26 directors, to be assistant officers of the board
27

28 Revised Law

29 Sec. 11007.055. OFFICER DUTIES. (a) The board president
30 shall preside at board meetings and perform other duties prescribed
31 by the board.

32 (b) The board vice president shall perform the duties of the
33 president when the president is not present or is otherwise
34 incapacitated.

35 (c) The board secretary is the official custodian of the
36 minutes, books, records, and seal of the board and shall perform
37 other duties and functions prescribed by the board.

38 (d) The board treasurer shall perform duties and functions
39 prescribed by the board.

1 (e) An assistant officer shall perform duties and functions
2 prescribed by the board. (Acts 65th Leg., R.S., Ch. 337, Sec. 4(f)
3 (part).)

4 Source Law

5 (f) [The board shall elect one of the directors
6 as president of the board,] . . . who shall preside at
7 meetings of the board and perform such other duties as
8 are prescribed by the board. [The board shall elect
9 another of the directors as vice-president of the
10 board,] who shall perform the duties of the president
11 when the president is not present or is otherwise
12 incapacitated. [The board shall elect a secretary of
13 the board,] who shall be the official custodian of the
14 minutes, books, records, and seal of the board, and who
15 shall perform such other duties and functions as are
16 prescribed by the board; [and shall elect a treasurer
17 of the board,] who shall perform such duties and
18 functions as are prescribed by the board. . . . [The
19 board may appoint . . . assistant officers of the
20 board] to perform such duties or functions as may be
21 designated by the board.

22 Revised Law

23 Sec. 11007.056. MEETINGS. The board shall have regular
24 meetings at times specified by board resolution or bylaws and shall
25 have special meetings when called by the board president or by any
26 three directors. (Acts 65th Leg., R.S., Ch. 337, Sec. 4(h).)

27 Source Law

28 (h) The board shall have regular meetings at
29 times specified by resolution or bylaws of the board,
30 and shall have special meetings whenever called by the
31 president, or whenever called by any three of the
32 directors.

33 Revisor's Note
34 (End of Subchapter)

35 (1) Section 4(a), Chapter 337, Acts of the 65th
36 Legislature, Regular Session, 1977, refers to the
37 initial directors and their terms of office. The
38 revised law omits those provisions as executed. The
39 omitted law reads:

40 (a) . . . The initial board of
41 directors shall be composed of the
42 following seven persons:

43 Robert Smith	David L. Hidalgo
44 John Bassett, Sr.	James J. Burrell
45 O. E. (Gene) Sewell	Bain Price, Jr.
46 Paul W. Picou	

47 The initial directors named above shall
48 draw lots at the first organizational
49 meeting of the board to determine [who shall

1 occupy places on the board to be designated
2 as Places 1, 2, 3, 4, 5, 6, and 7,
3 respectively.] Places 1, 2, and 3 on the
4 board shall expire on the first Saturday in
5 April, 1978, and Places 4, 5, 6, and 7 on the
6 board shall expire on the first Saturday in
7 April, 1979. At the expiration of the terms
8 of the initial directors,

9 (2) Section 4(a), Chapter 337, Acts of the 65th
10 Legislature, Regular Session, 1977, describes the
11 procedure for filling a board vacancy. The revised law
12 omits that provision because it duplicates in
13 substance Section 49.105, Water Code. The omitted law
14 reads:

15 (a) . . . Any vacancy occurring on
16 the board through death, resignation, or
17 otherwise, shall be filled by a majority of
18 the board of directors for the expiration of
19 the term for which the vacating director had
20 been appointed or elected.

21 (3) Sections 4(c) and (d), Chapter 337, Acts of
22 the 65th Legislature, Regular Session, 1977, provide
23 that each director shall execute a bond and take the
24 constitutional oath of office prescribed for county
25 commissioners and that the bond and oath of office
26 shall be filed with the district. The revised law
27 omits the provision requiring directors to take an
28 oath of office because Section 1, Article XVI, Texas
29 Constitution, requires all officers in this state to
30 take the oath (or affirmation) before assuming office.
31 The revised law omits the provisions relating to the
32 bond and the filing of the bond and oath because those
33 provisions duplicate in substance Section 49.055,
34 Water Code. The omitted law reads:

35 (c) As soon as practicable after a
36 director is elected or appointed he shall
37 execute a bond for \$10,000 payable to the
38 district and conditioned on the faithful
39 performance of his duties.

40 (d) All bonds of the directors shall
41 be approved by the board. Each director
42 shall take the oath of office prescribed by
43 the constitution for county commissioners.
44 The bond and oath shall be filed with the
45 district and retained in its records.

1 (4) Section 4(e), Chapter 337, Acts of the 65th
2 Legislature, Regular Session, 1977, provides that
3 directors are entitled to receive fees and
4 reimbursement in the manner provided for directors of
5 municipal utility districts in Chapter 54, Water Code.
6 The revised law omits the provision because Section
7 54.114, the relevant section of Chapter 54, was
8 repealed by Section 43, Chapter 715, Acts of the 74th
9 Legislature, Regular Session, 1995. Section 2 of
10 Chapter 715 enacted Section 49.060, Water Code, which
11 governs the compensation of directors of certain
12 districts. A reference to Section 49.060, Water Code,
13 is unnecessary because that section applies to the
14 district on its own terms. The omitted law reads:

15 (e) The directors shall be entitled
16 to receive fees of office, and be reimbursed
17 for expenses, in the same manner provided
18 for directors of municipal utility
19 districts in Chapter 54 of the Water Code.

20 SUBCHAPTER C. POWERS AND DUTIES

21 Revised Law

22 Sec. 11007.101. DISTRICT POWERS. The district may exercise
23 any power necessary or appropriate to achieve the purposes of this
24 chapter, including the power to:

25 (1) adopt an official seal;

26 (2) adopt and enforce:

27 (A) bylaws and rules for the conduct of its
28 affairs; and

29 (B) rules that a municipal utility district may
30 adopt and enforce under Section 54.205 et seq., Water Code;

31 (3) acquire, hold, use, invest, reinvest, and dispose
32 of its receipts and money from any source;

33 (4) select a depository or depositories;

34 (5) acquire, own, rent, lease, accept, hold, or
35 dispose of property or an interest in property, including a right or
36 easement, by purchase, exchange, gift, assignment, condemnation,

1 sale, lease, or other means, in performing a duty or exercising a
2 power under this chapter;

3 (6) hold, manage, operate, or improve property;

4 (7) lease or rent any land, buildings, structures, or
5 facilities from or to any person;

6 (8) sell, assign, lease, encumber, mortgage, or
7 otherwise dispose of property or an interest in property, and
8 release or relinquish a right, title, claim, lien, interest,
9 easement, or demand, regardless of the manner in which acquired,
10 and conduct a transaction authorized by this subdivision by public
11 or private sale, notwithstanding any other law;

12 (9) in the manner and to the extent permitted by this
13 chapter:

14 (A) borrow money for a corporate purpose;

15 (B) enter into an agreement in connection with
16 the borrowing;

17 (C) issue bonds for money borrowed;

18 (D) provide for and secure the payment of the
19 bonds; and

20 (E) provide for the rights of the holders of the
21 bonds;

22 (10) request and accept any appropriation, grant,
23 allocation, subsidy, guaranty, aid, service, material, or gift from
24 any public or private source, including the federal government, the
25 state, a public agency, or a political subdivision;

26 (11) operate and maintain an office; and

27 (12) appoint and determine the duties, tenure,
28 qualifications, and compensation of officers, employees, agents,
29 and professional advisors and counselors considered necessary or
30 advisable by the board, including financial consultants,
31 accountants, attorneys, architects, engineers, appraisers, and
32 financing experts. (Acts 65th Leg., R.S., Ch. 337, Sec. 10 (part).)

33 Source Law

34 Sec. 10. The district may exercise all powers

1 necessary or appropriate to carry out, achieve, or
2 effectuate the purposes of this Act, including,
3 without limitation, the following powers:

4 . . .
5 (2) to adopt an official seal and alter it
6 when deemed advisable, and to adopt and enforce
7 bylaws, and rules and regulations, for the conduct of
8 its affairs, not inconsistent with the provisions of
9 this Act;

10 (3) to acquire, hold, use, invest,
11 reinvest, and dispose of its revenues, income,
12 receipts, funds, and money from every source, and to
13 select its depository or depositories;

14 (4) to acquire, own, rent, lease, accept,
15 hold, or dispose of any real, personal, or mixed
16 property, or any interest therein, in performing its
17 duties and exercising its powers under this Act, by
18 purchase, exchange, gift, assignment, condemnation,
19 sale, lease, or otherwise, including rights or
20 easements, and to hold, manage, operate, or improve
21 real, personal, or mixed property;

22 (5) to sell, assign, lease, encumber,
23 mortgage, or otherwise dispose of any real, personal,
24 or mixed property, or any interest therein, and
25 release or relinquish any right, title, claim, lien,
26 interest, easement, or demand however acquired, and to
27 do any of the foregoing by public or private sale,
28 notwithstanding the provisions of any other law, and
29 to lease or rent any land, buildings, structures, or
30 facilities from or to any person, firm, corporation,
31 city, or other public agency or political subdivision
32 to effectuate the purpose of this Act;

33 (6) to request and to accept any
34 appropriations, grants, allocations, subsidies,
35 guaranties, aid, contributions, services, labor,
36 materials, gifts, or donations from the federal
37 government, the state, any city, public agency,
38 political subdivision, or any other public or private
39 sources;

40 (7) to operate and maintain an office, and
41 to appoint and determine the duties, tenure,
42 qualifications, and compensation of such officers,
43 employees, agents, and professional advisors, and
44 counselors, including, without limitation, financial
45 consultants, accountants, attorneys, architects,
46 engineers, appraisers, and financing experts, as are
47 deemed necessary or advisable by the board;

48 (8) to borrow money for any of its
49 corporate purposes, to enter into agreements in
50 connection with such borrowing, to issue its
51 negotiable bonds or notes for money borrowed, to
52 provide for and secure the payment of its bonds and
53 notes, and to provide for the rights of the holders of
54 its bonds and notes, all in the manner and to the
55 extent permitted by this Act;

56 . . .
57 (10) to adopt and enforce such reasonable
58 rules and regulations as may be adopted and enforced by
59 municipal utility districts under Section 54.205 et
60 seq., Chapter 54, of the Water Code.

61 Revisor's Note

62 (1) Section 10, Chapter 337, Acts of the 65th
63 Legislature, Regular Session, 1977, refers to the
64 district's power to "carry out, achieve, or

1 effectuate" certain purposes. The revised law omits
2 "carry out" and "effectuate" because those terms are
3 included in the meaning of "achieve."

4 (2) Section 10, Chapter 337, Acts of the 65th
5 Legislature, Regular Session, 1977, grants the
6 district certain powers, "including, without
7 limitation," the enumerated powers. That section also
8 refers to persons the district may hire, "including,
9 without limitation," certain consultants and advisors
10 named in the section. The revised law omits "without
11 limitation" because Section 311.005(13), Government
12 Code (Code Construction Act), provides that
13 "including" is a term of enlargement and not of
14 limitation and does not create a presumption that
15 components not expressed are excluded.

16 (3) Section 10(1), Chapter 337, Acts of the 65th
17 Legislature, Regular Session, 1977, provides that the
18 district may "sue and be sued . . . in its own name."
19 The revised law omits that provision because it
20 duplicates in substance part of Section 49.066, Water
21 Code. Section 10(1) also provides that the district
22 may "plead and be impleaded." The revised law omits
23 that provision because if the district can sue or be
24 sued, it must necessarily also be able to plead and be
25 impleaded in a suit. The omitted law reads:

26 Sec. 10. [The district may exercise
27 all powers necessary or appropriate . . .:]
28 (1) to sue and be sued, and
29 plead and be impleaded, in its own name;
30

31 (4) Section 10(2), Chapter 337, Acts of the 65th
32 Legislature, Regular Session, 1977, authorizes the
33 district to adopt an official seal and to "alter it
34 when deemed advisable." The revised law omits the
35 quoted language because the authority to adopt a seal
36 includes the authority to alter it.

1 (5) Section 10(2), Chapter 337, Acts of the 65th
2 Legislature, Regular Session, 1977, states that the
3 district may adopt and enforce "rules and regulations"
4 for the conduct of its affairs "not inconsistent with
5 the provisions of this Act." The revised law omits
6 "regulations" because Section 311.005(5), Government
7 Code (Code Construction Act), defines "rule" to
8 include "regulation." The revised law omits "not
9 inconsistent with the provisions of this Act" because
10 as a general principle of law, the district has the
11 authority to take only those actions that are
12 consistent with the law revised in this chapter.

13 (6) Section 10(3), Chapter 337, Acts of the 65th
14 Legislature, Regular Session, 1977, refers to the
15 district's power regarding its "revenues, income,
16 . . . funds, and money." The revised law omits
17 "revenues," "income," and "funds" because the meaning
18 of those terms is included in the meaning of "money."
19 Throughout this chapter, the revised law substitutes
20 "money" for "funds" (except where a specific type of
21 fund is indicated) because, in context, the meaning is
22 the same and "money" is the more commonly used term.

23 (7) Sections 10(4) and (5), Chapter 337, Acts of
24 the 65th Legislature, Regular Session, 1977, refer to
25 "real, personal, or mixed property." The revised law
26 omits references to "real," "personal," and "mixed"
27 property because under Section 311.005(4), Government
28 Code (Code Construction Act), "property" includes real
29 and personal and, by extension, mixed property.

30 (8) Section 10(5), Chapter 337, Acts of the 65th
31 Legislature, Regular Session, 1977, refers to any
32 "person, firm, corporation, city, or other public
33 agency or political subdivision." Throughout this
34 chapter, the revised law substitutes "person" for the

1 quoted language or similar language because Section
2 311.005(2), Government Code (Code Construction Act),
3 defines "person" to include any legal entity.

4 (9) Section 10(6), Chapter 337, Acts of the 65th
5 Legislature, Regular Session, 1977, provides that the
6 district may request and accept "appropriations,
7 grants, allocations, subsidies, guaranties, aid,
8 contributions, services, labor, materials, gifts, or
9 donations" from any public or private source,
10 including "any city . . . [or] political subdivision."
11 The revised law omits "contributions," "labor," and
12 "donations" because the meaning of those terms is
13 included in the meaning of "aid," "services," or
14 "gifts." The revised law also omits the reference to
15 "city" because "city" is included in the meaning of
16 "political subdivision."

17 (10) Section 10(8), Chapter 337, Acts of the
18 65th Legislature, Regular Session, 1977, provides that
19 the district may issue "negotiable" bonds or notes and
20 take certain other actions with respect to those bonds
21 and notes. The revised law omits "negotiable" because
22 Section 1201.041, Government Code, provides that a
23 public security is a negotiable instrument. Section
24 1201.041 applies to district bonds and notes by
25 application of Section 1201.002, Government Code.
26 Throughout this chapter, the revised law also omits
27 the reference to "notes" in this context because
28 "notes" is included in the meaning of "bonds," as
29 defined by Section 11007.001 of this chapter.

30 (11) Section 10(9), Chapter 337, Acts of the
31 65th Legislature, Regular Session, 1977, authorizes
32 the district to set and "revise from time to time"
33 certain fees for those who use district facilities or
34 services and to charge and collect those fees. The

1 revised law omits the reference to setting, charging,
2 and collecting fees because it duplicates in substance
3 Section 49.212, Water Code. The revised law also omits
4 the reference to revising the fees from time to time
5 because the power to set the fees includes the power to
6 revise them from time to time. The omitted law reads:

7 Sec. 10. [The district may exercise
8 all powers necessary or appropriate . . .:]

9 (9) to fix and revise from time
10 to time and charge and collect rates, fees,
11 and charges for its facilities and
12 services; and
13

14 (12) Section 10(10), Chapter 337, Acts of the
15 65th Legislature, Regular Session, 1977, states that
16 the district may adopt and enforce "reasonable rules
17 and regulations" as may be adopted and enforced by
18 municipal utility districts under Section 54.205 et
19 seq., Water Code. The revised law omits "reasonable"
20 because the requirement that the rules be reasonable
21 duplicates Section 54.205, Water Code. The revised
22 law omits "regulations" for the reason stated in
23 Revisor's Note (5) to this section.

24 Revised Law

25 Sec. 11007.102. GENERAL POWERS REGARDING WATER. The
26 district has all rights, powers, and privileges necessary or useful
27 to enable it to acquire, provide, supply, deliver, and sell potable
28 water inside or outside its boundaries for any beneficial purpose.
29 (Acts 65th Leg., R.S., Ch. 337, Sec. 6.)

30 Source Law

31 Sec. 6. The district shall have and exercise,
32 and is hereby vested with, all rights, powers,
33 privileges, and authority necessary or useful to
34 enable it to acquire, provide, supply, deliver, and
35 sell potable water within and without its boundaries
36 for any beneficial purpose.

37 Revisor's Note

38 Section 6, Chapter 337, Acts of the 65th
39 Legislature, Regular Session, 1977, states that the

1 district "shall have and exercise, and is hereby
2 vested with," certain powers. Throughout this
3 chapter, the revised law substitutes "has" for the
4 quoted or similar language because, in context, the
5 terms are synonymous and "has" is more commonly used.

6 Revised Law

7 Sec. 11007.103. GENERAL POWERS REGARDING WASTE. The
8 district has all rights, powers, and privileges necessary or useful
9 to enable it to collect, transport, dispose of, and control
10 domestic, industrial, or communal wastes, whether in fluid, solid,
11 or composite state. (Acts 65th Leg., R.S., Ch. 337, Sec. 7.)

12 Source Law

13 Sec. 7. The district shall have and exercise,
14 and is hereby vested with, all rights, powers,
15 privileges, and authority necessary or useful to
16 enable it to collect, transport, dispose of, and
17 control domestic, industrial, or communal wastes,
18 whether in fluid, solid, or composite state.

19 Revised Law

20 Sec. 11007.104. GENERAL POWERS REGARDING GARBAGE
21 COLLECTION AND DISPOSAL. The district has all rights, powers, and
22 privileges necessary or useful to enable it to provide for garbage
23 collection and disposal in all or part of the district on terms and
24 at rates and charges the board considers just and reasonable to:

25 (1) preserve the water of rivers and streams in the
26 district and this state; and

27 (2) aid in the preservation and conservation of the
28 natural resources of the district and this state. (Acts 65th Leg.,
29 R.S., Ch. 337, Sec. 8.)

30 Source Law

31 Sec. 8. In order to preserve the waters of
32 rivers and streams within the district and the state
33 and to aid in the preservation and conservation of the
34 natural resources of the district and the state, the
35 district shall have all rights, powers, privileges,
36 and authority necessary or useful to enable it to
37 provide for the collection and disposal of garbage
38 within all or a portion of the district upon such terms
39 and conditions and for such rates and charges as the
40 board shall deem to be just and reasonable.

1 Revisor's Note

2 Section 8, Chapter 337, Acts of the 65th
3 Legislature, Regular Session, 1977, refers to certain
4 "terms and conditions." Throughout this chapter, the
5 revised law omits the reference to "conditions" in
6 this context because "conditions" is included in the
7 meaning of "terms."

8 Revised Law

9 Sec. 11007.105. GENERAL CONTRACT POWERS. (a) The district
10 may enter into and enforce a contract or agreement necessary or
11 convenient to the exercise of the powers, rights, privileges, and
12 functions conferred on the district by this chapter or general law,
13 including a contract or agreement with any person as the board
14 considers necessary or proper for, or in connection with, any power
15 or function of the district for:

16 (1) the purchase or sale of water;

17 (2) the collection, transportation, processing, or
18 disposal of waste; or

19 (3) the construction, acquisition, ownership,
20 financing, operation, maintenance, sale, leasing to or from, or
21 other use or disposition of any facilities authorized to be
22 developed, acquired, or constructed under this chapter or general
23 law.

24 (b) The authority to enter into or enforce the contract or
25 agreement includes the authority to enter into or enforce a
26 contract or agreement regarding:

27 (1) any improvements, structures, facilities,
28 equipment, and other property of any kind in connection with the
29 subject of the contract or agreement;

30 (2) any land, leaseholds, and easements; and

31 (3) any interests in the property.

32 (c) The contract or agreement:

33 (1) may not have a term of more than 40 years; and

34 (2) may contain provisions the board determines to be

1 in the best interest of the district.

2 (d) The district may pledge all or part of its revenue to the
3 payment of its obligations under the contract or agreement to the
4 same extent and on the same conditions as it may pledge revenue to
5 secure district bonds. (Acts 65th Leg., R.S., Ch. 337, Sec. 9(a).)

6 Source Law

7 Sec. 9. (a) The district may enter into and
8 enforce any and all contracts and agreements necessary
9 or convenient to the exercise of the powers, rights,
10 privileges, and functions conferred upon it by this
11 Act or the general law for terms up to 40 years and with
12 such provisions as the board may determine to be in the
13 best interests of the district, including, without in
14 any way limiting the generality of the foregoing,
15 contracts and agreements with persons, including the
16 State of Texas, the United States of America, and any
17 corporation or agency thereof, and districts, cities,
18 towns, persons, organizations, associations, firms,
19 corporations, entities, or others, as the board may
20 deem necessary or proper for, or in connection with,
21 any power or function of the district for the purchase
22 or sale of water, for the collection, transportation,
23 processing, or disposal of waste or for the
24 construction, acquisition, ownership, financing,
25 operation, maintenance, sale, leasing to or from, or
26 other use or disposition of any facilities authorized
27 to be developed, acquired, or constructed under this
28 Act or the general law, including any improvements,
29 structures, facilities, equipment, and all other
30 property of any kind in connection therewith, and any
31 lands, leaseholds, easements, and any interests in any
32 of the foregoing, and the district may pledge all or
33 any portion of its revenues to the payment of its
34 obligations under such contracts or agreements to the
35 same extent and upon the same conditions as it may
36 pledge revenues to secure the bonds that it may issue
37 under this Act.

38 Revisor's Note

39 Section 9(a), Chapter 337, Acts of the 65th
40 Legislature, Regular Session, 1977, provides that
41 "without in any way limiting the generality of the
42 foregoing" power of the district to enter into all
43 necessary or convenient contracts or agreements, the
44 district may enter into contracts and agreements with
45 certain persons in connection with certain district
46 purposes. The revised law omits the quoted language
47 because an accepted principle of statutory
48 construction requires a statute to be given cumulative
49 effect with other statutes unless it provides

1 otherwise or unless the statutes are in conflict. The
2 general principle applies to this revision.

3 Revised Law

4 Sec. 11007.106. AUTHORITY OF PUBLIC AGENCIES AND POLITICAL
5 SUBDIVISIONS TO CONTRACT WITH DISTRICT. A public agency or
6 political subdivision of this state may enter into a contract or
7 agreement with the district, on terms agreed to by the parties, for:

8 (1) the purchase or sale of water;

9 (2) waste collection, transportation, processing, or
10 disposal; or

11 (3) any purpose relating to the district's powers or
12 functions. (Acts 65th Leg., R.S., Ch. 337, Sec. 9(b) (part).)

13 Source Law

14 (b) All public agencies and political
15 subdivisions of the State of Texas, including
16 specifically all cities, towns, and villages within
17 the district, are hereby authorized to enter into
18 contracts and agreements with the district for the
19 purchase or sale of water, for waste collection,
20 transportation, processing, or disposal, or for any
21 other purpose relating to the district's powers or
22 functions, upon such terms and conditions as the
23 parties may agree. . . .

24 Revisor's Note

25 Section 9(b), Chapter 337, Acts of the 65th
26 Legislature, Regular Session, 1977, refers to a
27 political subdivision of the state "including
28 specifically all cities, towns, and villages within
29 the district." The revised law omits references to
30 "cities, towns, and villages" in this context because
31 those terms are included in the meaning of "political
32 subdivision."

33 Revised Law

34 Sec. 11007.107. CONVEYANCE OF PROPERTY TO DISTRICT. A
35 public agency or political subdivision of this state may lease,
36 sell, or otherwise convey to the district, for any consideration
37 that the parties agree is adequate, any of its land, improvements,
38 property, plants, lines, or other facilities related to:

- 1 (1) the supply of water; or
- 2 (2) waste collection, transportation, processing, or
- 3 disposal. (Acts 65th Leg., R.S., Ch. 337, Sec. 9(b) (part).)

4 Source Law

5 (b) [All public agencies and political

6 subdivisions of the State of Texas,] Also,

7 each such entity may lease, sell, or otherwise convey

8 to the district any of its lands, improvements,

9 properties, plants, lines, or other facilities related

10 to the supply of water or the collection,

11 transportation, processing, or disposal of waste for

12 any consideration agreed on between the parties to be

13 adequate.

14 Revised Law

15 Sec. 11007.108. ACQUISITION OF EXISTING FACILITIES. If the

16 district acquires existing works, improvements, facilities,

17 plants, equipment, or appliances that are completed, partially

18 created, or under construction, the district may:

19 (1) assume the contracts and obligations of the

20 previous owner; and

21 (2) perform the obligations of the previous owner in

22 the same manner and to the same extent that any other purchaser or

23 assignee would be bound. (Acts 65th Leg., R.S., Ch. 337, Sec.

24 9(c).)

25 Source Law

26 (c) If the district acquires existing works,

27 improvements, facilities, plants, equipment, and

28 appliances which are completed or partially created or

29 under construction, the district may assume the

30 contracts and obligations of the previous owner and

31 perform the obligations of the previous owner in the

32 same manner and to the same extent that any other

33 purchaser or assignee would be bound.

34 Revised Law

35 Sec. 11007.109. EMINENT DOMAIN. (a) To carry out a power

36 conferred by this chapter, the district may exercise the power of

37 eminent domain inside or outside the district to acquire the fee

38 simple title to land, or any other interest in land as determined by

39 the board, and other property and easements, necessary for water

40 wells, water or sewer treatment plants, water or sewer lines,

41 pumping stations and force mains, storage tanks, or other similar

1 facilities.

2 (b) The district must exercise the power of eminent domain
3 in the manner provided by Chapter 21, Property Code. (Acts 65th
4 Leg., R.S., Ch. 337, Sec. 11(a) (part).)

5 Source Law

6 Sec. 11. (a) For the purpose of carrying out
7 any power or authority conferred by this Act, the
8 district may acquire the fee simple title to land, or
9 any other interest in land as may be determined by the
10 board, and other property and easements, necessary for
11 water wells, water or sewer treatment plants, water or
12 sewer lines, pumping stations and force mains, storage
13 tanks, or other similar facilities, inside or outside
14 the boundaries of the district, by condemnation, in
15 the manner provided by Title 52, Revised Civil
16 Statutes of Texas, 1925, as amended, relating to
17 eminent domain, except that

18 Revisor's Note

19 (1) Section 11(a), Chapter 337, Acts of the 65th
20 Legislature, Regular Session, 1977, provides that "the
21 district may acquire [certain property] by
22 condemnation." The revised law substitutes for the
23 quoted language "the district may exercise the power
24 of eminent domain . . . to acquire [certain property]"
25 because the phrases have the same meaning and the
26 latter is consistent with modern usage in laws
27 relating to eminent domain.

28 (2) Section 11(a), Chapter 337, Acts of the 65th
29 Legislature, Regular Session, 1977, refers to Title
30 52, Revised Civil Statutes of Texas, 1925, as amended.
31 That statute was codified as Chapter 21, Property
32 Code. The revised law is drafted accordingly. The
33 revised law omits the reference to "as amended"
34 because under Section 311.027, Government Code (Code
35 Construction Act), a reference to a statute applies to
36 all reenactments, revisions, or amendments of that
37 statute unless expressly provided otherwise.

38 (3) Section 11(a), Chapter 337, Acts of the 65th
39 Legislature, Regular Session, 1977, states that the

1 district is not required to give bond for appeal or
2 bond for costs in suits to which it is a party and is
3 not required to deposit double the amount of any award
4 in any suit relating to eminent domain. The revised
5 law omits those provisions because they duplicate in
6 substance Section 49.066(f), Water Code, which
7 provides that certain districts are not required to
8 give bond for appeal or bond for costs in suits to
9 which they are a party and that they are not required
10 to make the additional deposit. The omitted law reads:

11 (a) . . . the district shall not be
12 required to give bond for appeal or bond for
13 costs in any condemnation suit or other suit
14 to which it is a party and shall not be
15 required to deposit double the amount of any
16 award in any suit.

17 Revised Law

18 Sec. 11007.110. COST OF RELOCATING OR ALTERING PROPERTY;
19 RIGHTS-OF-WAY AND EASEMENTS. (a) If the district's exercise of its
20 eminent domain, police, or other power requires relocating,
21 raising, lowering, rerouting, or changing the grade of or altering
22 the construction of any highway, railroad, electric, transmission,
23 telegraph, or telephone line, conduit, pole, property, or facility
24 or pipeline, the action shall be accomplished at the sole expense of
25 the district. The term "sole expense" means the actual cost of the
26 lowering, rerouting, or change in grade or alteration of
27 construction to provide a comparable replacement without enhancing
28 the facility, after deducting from the cost the net salvage value
29 derived from the old facility.

30 (b) The district has all necessary or useful rights-of-way
31 and easements along, over, under, and across all public, state,
32 municipal, and county roads, highways, and places for any of its
33 purposes. The district shall restore a used facility to its
34 previous condition as nearly as possible at the sole expense of the
35 district. (Acts 65th Leg., R.S., Ch. 337, Secs. 11(c), (d).)

Source Law

(c) The district is hereby given and granted all necessary or useful rights-of-way and easements along, over, under, and across all public, state, city, and county roads, highways, and places for any of its purposes, but the district shall restore any such facilities used to their previous condition as nearly as possible at the sole expense of the district.

(d) In the event the district, in the exercise of its power of eminent domain or police power, or any other power, requires the relocation, raising, lowering, rerouting, or change in grade or alteration in the construction of any highway, railroad, electric, transmission, telegraph, or telephone lines, conduits, poles, properties, or facilities or pipelines, all this relocation, raising, lowering, rerouting, or changes in grade or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" means the actual cost of the lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of the facilities, after deducting from the cost the net salvage value derived from the old facility.

Revisor's Note

Section 11(c), Chapter 337, Acts of the 65th Legislature, Regular Session, 1977, refers to "city" roads, highways, and places. The revised law substitutes the term "municipal" for "city" because "municipal" is the term used in the Local Government Code.

Revisor's Note
(End of Subchapter)

(1) Section 9(d), Chapter 337, Acts of the 65th Legislature, Regular Session, 1977, allows the district to acquire the property and assets of, and to assume the obligations and liabilities of, the Cheek Fannett Water Supply Corporation. The revised law omits the provision as executed because the acquisitions have occurred. The omitted law reads:

(d) The district is expressly authorized to acquire all of the works, improvements, facilities, plants, equipment, appliances, contract rights, and other assets of the Cheek Fannett Water Supply Corporation, a nonprofit Texas corporation, and to assume all obligations, duties, and liabilities of such corporation, including without limitation, payment of that certain note dated April 7,

1 1969, in the original principal amount of
2 \$605,000 maximum, payable to the order of
3 the United States of America, acting by and
4 through the Secretary of Housing and Urban
5 Development, and all obligations under a
6 deed of trust of even date therewith
7 securing payment of such note. Such
8 assumption may be accomplished pursuant to
9 a resolution of the board.

10 (2) Section 9(e), Chapter 337, Acts of the 65th
11 Legislature, Regular Session, 1977, provides that the
12 rights, powers, privileges, authority, and functions
13 granted to the district are subject to the continuing
14 right of supervision of the state, acting through the
15 Texas Water Rights Commission, including commission
16 authority given under Sections 54.516, 54.517, and
17 54.030 et seq., Water Code. The revised law omits the
18 provision because the Texas Commission on
19 Environmental Quality is the successor to the Texas
20 Water Rights Commission, and therefore the provision
21 duplicates in substance part of Section 12.081, Water
22 Code, which applies to the district. Sections 54.516
23 and 54.517, Water Code, which granted the commission
24 certain supervisory authority in the issuance of
25 district bonds and in the construction of projects,
26 were repealed in 1995 and replaced by similar Sections
27 49.181 and 49.182, Water Code, which apply to the
28 district on their own terms. Section 54.030 et seq.,
29 Water Code, applies to any conservation and
30 reclamation district that converts to a municipal
31 utility district governed by Chapter 54, Water Code.
32 Those sections also apply on their own terms if they
33 are invoked through the conversion process they
34 describe, so it is not necessary to provide a reference
35 to those sections in this chapter. The omitted law
36 reads:

37 (e) The rights, powers, privileges,
38 authority, and functions herein granted to
39 the district shall be subject to the
40 continuing right of supervision of the

1 state, to be exercised by and through the
2 Texas Water Rights Commission, subject to
3 the provisions of this Act, and the Water
4 Code, including but not limited to the
5 authority given under Sections 54.516,
6 54.517, and 54.030, et seq., of Chapter 54
7 of the Water Code.

8 (3) Section 11(b), Chapter 337, Acts of the 65th
9 Legislature, Regular Session, 1977, provides that the
10 district has the powers conferred by Section 54.216,
11 Water Code, on municipal utility districts regarding
12 entering land, making surveys, and attending to other
13 district business. The revised law omits that
14 provision because it duplicates in substance Section
15 49.221, Water Code, which replaced Section 54.216,
16 Water Code, when that section was repealed in 1995.
17 The omitted law reads:

18 (b) The district shall have the same
19 power as is conferred on municipal utility
20 districts in Section 54.216 of the Water
21 Code, with reference to entering land and
22 making surveys and attending to other
23 business of the district.

24 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

25 Revised Law

26 Sec. 11007.151. IMPOSITION OF MAINTENANCE TAX; PROHIBITION
27 ON OTHER TAXES OR ASSESSMENTS. (a) The district may impose a tax,
28 not to exceed 10 cents on each \$100 valuation of taxable property in
29 the district, for:

30 (1) maintenance purposes, including money for
31 studying, planning, maintaining, repairing, and operating all
32 necessary plants, works, facilities, improvements, appliances, and
33 equipment of the district;

34 (2) paying costs of proper services, engineering, and
35 legal fees; and

36 (3) organization and administrative expenses.

37 (b) The district may not impose a maintenance tax unless the
38 tax is approved by a majority of the voters voting at an election
39 held for that purpose.

40 (c) Except for the maintenance tax authorized by this

1 section, the district may not under this chapter or any other law
2 levy or collect a tax or assessment or create a debt payable from a
3 tax or assessment. (Acts 65th Leg., R.S., Ch. 337, Secs. 12(a), (b)
4 (part), (c).)

5 Source Law

6 Sec. 12. (a) The district may levy and collect
7 a tax, not to exceed 10 cents on the \$100 valuation of
8 taxable property in the district, for maintenance
9 purposes, including funds for studying, planning,
10 maintaining, repairing, and operating all necessary
11 plants, works, facilities, improvements, appliances,
12 and equipment of the district and for paying costs of
13 proper services, engineering, and legal fees, and
14 organization and administrative expenses.

15 (b) A maintenance tax may not be levied until it
16 is approved by a majority of the qualified electors
17 voting at an election held for that purpose. . . .

18 (c) Except for the maintenance tax hereinabove
19 authorized, nothing in this Act or in any other act or
20 law shall be construed as authorizing the district to
21 levy or collect taxes or assessments or to create any
22 indebtedness payable out of taxes or assessments.

23 Revisor's Note

24 Section 12(b), Chapter 337, Acts of the 65th
25 Legislature, Regular Session, 1977, refers to a
26 majority of the "qualified" voters of the district.
27 The revised law omits "qualified" as unnecessary in
28 this context because Chapter 11, Election Code,
29 governs eligibility to vote in an election in this
30 state and allows only "qualified" voters to vote in an
31 election.

32 Revised Law

33 Sec. 11007.152. ELECTION TO IMPOSE TAX. (a) The board may
34 order an election to impose a maintenance tax. The election order
35 must specify:

- 36 (1) the time and place of the election;
37 (2) the maximum amount of tax to be authorized;
38 (3) the form of the ballot; and
39 (4) other matters the board considers necessary or
40 advisable.

41 (b) Notice of the election must be given by publishing once
42 a week for two consecutive weeks a substantial copy of the election

1 order in a newspaper of general circulation in the district. The
2 first publication must occur at least 14 days before the date of the
3 election. (Acts 65th Leg., R.S., Ch. 337, Sec. 12(b) (part).)

4 Source Law

5 (b) . . . Such an election may be called by the
6 board. The resolution calling the election shall
7 specify the time and place or places of holding the
8 election, the maximum amount of the maintenance tax to
9 be authorized, the form of the ballot, and other
10 matters deemed necessary or advisable by the board.
11 Notice of the election shall be given by publishing a
12 substantial copy of the resolution calling the
13 election in a newspaper having general circulation in
14 the district, once each week for two consecutive
15 weeks, with the first publication to be at least 14
16 days prior to the election. . . .

17 Revisor's Note

18 (1) Section 12(b), Chapter 337, Acts of the 65th
19 Legislature, Regular Session, 1977, provides that an
20 election "may be called" by the board to authorize
21 imposing a maintenance tax and refers to the
22 "resolution calling the election." The revised law
23 substitutes "may order" for "may be called" and
24 "election order" for "resolution calling the election"
25 because "order" is the term used in Chapter 3, Election
26 Code.

27 (2) Section 12(b), Chapter 337, Acts of the 65th
28 Legislature, Regular Session, 1977, requires that
29 election returns be made to the board. The revised law
30 omits that requirement because it duplicates in
31 substance Sections 66.022 and 66.051(a), Election
32 Code. Section 12(b) also requires the board to canvass
33 the election returns. The revised law omits that
34 requirement because it duplicates in substance Section
35 67.002, Election Code. The omitted law reads:

36 (b) . . . The returns of the election
37 shall be made to and canvassed by the board.
38 . . .

39 (3) Section 12(b), Chapter 337, Acts of the 65th
40 Legislature, Regular Session, 1977, states that a

1 district maintenance tax election shall be held in
2 accordance with the Election Code, except as provided
3 by Section 12, Chapter 337. The revised law omits that
4 provision because Section 1.002, Election Code,
5 provides that the Election Code applies to all
6 elections held in this state, and an exception to the
7 application of the Election Code would apply by its own
8 terms. The omitted law reads:

9 (b) . . . The Texas Election Code
10 shall be applicable to elections held under
11 this section, except as otherwise provided
12 herein.

13 Revised Law

14 Sec. 11007.153. DEPOSITORY. (a) The board shall designate
15 one or more banks inside or outside the district to serve as the
16 depository for the district's money.

17 (b) All district money shall be deposited in the depository
18 designated by the board, except that:

19 (1) bond proceeds and money pledged to pay bonds, to
20 the extent provided in a resolution or trust indenture authorizing
21 or securing district bonds, may be deposited with another bank or
22 trustee named in the bond resolution or trust indenture; and

23 (2) money shall be remitted to each paying agent for
24 the payment of principal of and interest on the bonds.

25 (c) To the extent that money in a depository bank or the
26 trustee bank is not insured by the Federal Deposit Insurance
27 Corporation, the money must be secured in the manner provided by law
28 for the security of the county funds in this state. (Acts 65th
29 Leg., R.S., Ch. 337, Sec. 19 (part).)

30 Source Law

31 Sec. 19. The board shall designate one or more
32 banks inside or outside the district to serve as
33 depository for the funds of the district. All funds of
34 the district shall be deposited in the depository bank
35 or banks, except that bond proceeds and funds pledged
36 to pay bonds may, to the extent provided in any
37 resolution or trust indenture authorizing or securing
38 bonds of the district, be deposited with any other bank
39 or trustee named in the bond resolution or trust
40 indenture, and except that funds shall be remitted to

1 each paying agent for the payment of principal of and
2 interest on the bonds. To the extent that funds in the
3 depository banks and the trustee bank are not insured
4 by the Federal Deposit Insurance Corporation or the
5 Federal Savings and Loan Insurance Corporation, they
6 shall be secured in the manner provided by law for the
7 security of funds of counties in the State of Texas.
8 . . .

9 Revisor's Note

10 Section 19, Chapter 337, Acts of the 65th
11 Legislature, Regular Session, 1977, refers to the
12 Federal Savings and Loan Insurance Corporation. The
13 Financial Institutions Reform, Recovery, and
14 Enforcement Act of 1989 (Pub. L. No. 101-73) abolished
15 the Federal Savings and Loan Insurance Corporation and
16 provided for the insurance of the deposits of savings
17 and loan associations by the Federal Deposit Insurance
18 Corporation. The revised law is drafted accordingly.

19 Revised Law

20 Sec. 11007.154. INVESTMENT OF DISTRICT MONEY. The board
21 may invest district money in obligations and make time deposits of
22 district money in a manner determined by the board or in the manner
23 permitted or required in a resolution or trust indenture
24 authorizing or securing district bonds. (Acts 65th Leg., R.S., Ch.
25 337, Sec. 19 (part).)

26 Source Law

27 Sec. 19. . . . The board may invest district
28 funds in obligations and make time deposits of
29 district funds, in such manner as is determined by the
30 board, or in the manner permitted or required in any
31 resolution or trust indenture authorizing or securing
32 bonds of the district.

33 Revised Law

34 Sec. 11007.155. DISTRICT FACILITIES EXEMPT FROM TAXATION
35 AND ASSESSMENT. The district is not required to pay a tax or
36 assessment on its facilities or any part of its facilities. (Acts
37 65th Leg., R.S., Ch. 337, Sec. 22 (part).)

38 Source Law

39 Sec. 22. . . . The district shall not be
40 required to pay any tax or assessment on its facilities
41 or any part of its facilities, and . . .

Revisor's Note
(End of Subchapter)

Section 13, Chapter 337, Acts of the 65th Legislature, Regular Session, 1977, establishes certain procedures relating to the imposition of ad valorem taxes. The revised law omits those provisions as superseded by Title 1, Tax Code, which was intended as a comprehensive, substantive codification of all ad valorem tax law and its administration. Title 1, Tax Code, was enacted by Chapter 841, Acts of the 66th Legislature, Regular Session, 1979. Section 6(b) of that act repealed all "general, local, and special laws" that conflicted with that act. The omitted law reads:

Sec. 13. (a) The tax rolls of Jefferson County are adopted and shall constitute the tax rolls of the district for purposes of levying and assessing the maintenance tax herein authorized.

(b) The laws of this state applicable to the levy, assessment, and collection of ad valorem taxes by counties may be adopted and shall be used to the extent pertinent and practicable.

SUBCHAPTER E. BONDS

Revised Law

Sec. 11007.201. AUTHORITY TO ISSUE BONDS. (a) The district may issue bonds payable from and secured by district revenue to carry out any power conferred by this chapter. The bonds must be authorized by a board resolution.

(b) The bonds must be issued in the manner and under the terms of the resolution authorizing the issuance of the bonds. (Acts 65th Leg., R.S., Ch. 337, Secs. 15(a) (part), (b) (part).)

Source Law

Sec. 15. (a) For the purpose of carrying out any power or authority conferred by this Act, the district may issue its negotiable bonds or notes to be payable from and secured by revenues of the district, in the manner and under the terms and conditions provided in the resolution authorizing the issuance of the bonds or notes [(hereinafter called "bonds")].

(b) The bonds shall be authorized by resolution of the board and

1 Revisor's Note

2 (1) Section 15(a), Chapter 337, Acts of the 65th
3 Legislature, Regular Session, 1977, authorizes the
4 district to issue "negotiable" bonds or notes. The
5 revised law omits "negotiable" for the reason stated
6 in Revisor's Note (10) to Section 11007.101.

7 (2) Section 15(c), Chapter 337, Acts of the 65th
8 Legislature, Regular Session, 1977, states that bonds
9 may be issued in "more than one series and from time to
10 time as required for carrying out the purposes of this
11 Act." The revised law omits "more than one series"
12 because it duplicates in substance a provision of
13 Section 1201.022, Government Code, which applies to
14 district bonds by application of Section 1201.003,
15 Government Code. The revised law omits "from time to
16 time" because the power to issue bonds implies the
17 power to do so at any time. The revised law omits "as
18 required for carrying out the purposes of this Act"
19 because Section 15(a), Chapter 337, Acts of the 65th
20 Legislature, Regular Session, 1977, revised as this
21 section, authorizes the district to issue bonds for
22 the purposes of the act. The omitted law reads:

23 (c) Bonds may be issued in more than
24 one series and from time to time as required
25 for carrying out the purposes of this Act.

26 Revised Law

27 Sec. 11007.202. FORM OF BONDS. District bonds must be:

- 28 (1) issued in the district's name;
29 (2) signed by the president or vice president; and
30 (3) attested by the secretary. (Acts 65th Leg., R.S.,
31 Ch. 337, Sec. 15(b) (part).)

32 Source Law

33 (b) [The bonds] . . . shall be issued in the
34 name of the district, signed by the president or
35 vice-president, attested by the secretary, and

1 Revisor's Note

2 Section 15(b), Chapter 337, Acts of the 65th
3 Legislature, Regular Session, 1977, provides that
4 district bonds must bear the seal of the district and
5 authorizes facsimile "printed or lithographed"
6 signatures and seals. The revised law omits those
7 provisions as unnecessary. The requirement that the
8 bonds bear the seal of the district was impliedly
9 repealed by Section 3, Bond Procedures Act of 1981
10 (Article 717k-6, Vernon's Texas Civil Statutes)
11 (revised in relevant part in 1999 as Section
12 1201.026(a), Government Code), which provides that
13 bonds may be signed with or without a seal. The
14 authorization for the use of printed or lithographed
15 signatures duplicates in substance Section
16 1201.026(a), Government Code, which also provides that
17 bonds and interest coupons may be executed with manual
18 or facsimile signatures. Section 1201.026 applies to
19 district bonds under Sections 1201.002 and 1201.003,
20 Government Code. The omitted law reads:

21 (b) [The bonds] . . . shall bear the
22 seal of the district. It is provided,
23 however, that the signatures of the
24 president or the vice-president or the
25 secretary, or of both, may be printed or
26 lithographed on the bonds if authorized by
27 the board, and that the seal of the district
28 may be impressed on the bonds or may be
29 printed or lithographed on the bonds. . . .

30 Revised Law

31 Sec. 11007.203. MATURITY. District bonds must mature not
32 later than 40 years after the date of their issuance. (Acts 65th
33 Leg., R.S., Ch. 337, Sec. 15(b) (part).)

34 Source Law

35 (b) . . . The bonds shall mature serially or
36 otherwise in not to exceed 40 years from their date and
37

38 Revisor's Note

39 Section 15(b), Chapter 337, Acts of the 65th

1 Legislature, Regular Session, 1977, provides that
2 district bonds shall mature "serially or otherwise."
3 The revised law omits the quoted language because it is
4 superseded by Section 1201.021, Government Code
5 (enacted as Section 3, Bond Procedures Act of 1981
6 (Article 717k-6, Vernon's Texas Civil Statutes)),
7 which provides that the governing body of an issuer may
8 determine the time of payment of public securities it
9 issues, and by Section 1201.022, Government Code
10 (enacted as Section 5(a), Bond Procedures Act of 1981
11 (Article 717k-6, Vernon's Texas Civil Statutes)),
12 which provides that a public security may be issued
13 with specified characteristics, on specified terms, or
14 in a specified manner. Sections 1201.021 and
15 1201.022, Government Code, apply to district bonds
16 under Sections 1201.002 and 1201.003, Government Code.

17 Revised Law

18 Sec. 11007.204. BONDS SECURED BY REVENUE; ADDITIONAL BONDS.

19 (a) District bonds may be secured by a pledge of all or part of the
20 district's revenue, or by all or part of the payments or rentals
21 under one or more contracts or leases specified by board resolution
22 or a trust indenture securing the bonds.

23 (b) A resolution authorizing the issuance of bonds secured
24 by a pledge of revenue of all or part of the district's facilities
25 may provide that the district shall first pay the expenses of
26 operating and maintaining all or part of the facilities as the board
27 considers appropriate before paying the principal of and interest
28 on the bonds.

29 (c) In a resolution authorizing the issuance of bonds
30 secured by revenue, contract payments, or lease rentals, the
31 district may reserve the right, under conditions specified by the
32 resolution, to issue additional bonds that will be on a parity with,
33 superior to, or subordinate to the bonds then being issued. (Acts
34 65th Leg., R.S., Ch. 337, Sec. 15(d).)

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1 purchaser under a sale under the deed of trust lien,
2 where one is given, shall be the absolute owner of
3 properties, facilities, and rights so purchased and
4 shall have the right to maintain and operate them.

5 Revised Law

6 Sec. 11007.206. TRUST INDENTURE. District bonds authorized
7 by this chapter, including refunding bonds, may be additionally
8 secured by a trust indenture. The trustee may be a bank with trust
9 powers that is located inside or outside the state. (Acts 65th
10 Leg., R.S., Ch. 337, Sec. 16 (part).)

11 Source Law

12 Sec. 16. Any bonds, including refunding bonds,
13 authorized by this law may be additionally secured by a
14 trust indenture under which the trustee may be a bank
15 having trust powers situated either inside or outside
16 the state. . . .

17 Revised Law

18 Sec. 11007.207. CHARGES FOR DISTRICT SERVICES. If district
19 bonds payable wholly from revenue are issued, the board shall set
20 and from time to time revise the rates, fees, and charges assessed
21 for water sold and waste collection and treatment services provided
22 by the district. The rates, fees, and charges must be sufficient
23 to:

24 (1) pay the expense of operating and maintaining the
25 district facilities that generate the revenue from which the bonds
26 will be paid;

27 (2) pay the principal of and interest on the bonds when
28 due; and

29 (3) maintain the reserve fund and other funds as
30 provided in the resolution authorizing the bonds. (Acts 65th Leg.,
31 R.S., Ch. 337, Sec. 15(e) (part).)

32 Source Law

33 (e) Where bonds payable wholly from revenues are
34 issued, the board shall fix, and from time to time
35 revise, the rates, fees, and charges assessed for
36 water sold and waste collection and treatment services
37 rendered by the district which will be sufficient (i)
38 to pay the expense of operating and maintaining those
39 facilities of the district that generate the revenues
40 from which the district's bonds will be paid, (ii) to
41 pay the principal of and interest on the bonds when
42 due, and (iii) to maintain such reserve and other funds
43 as are provided in the resolution authorizing the

1 bonds. . . .

2 Revised Law

3 Sec. 11007.208. STATE PLEDGE REGARDING RIGHTS AND REMEDIES
4 OF BONDHOLDERS. Without depriving this state of its power to
5 regulate and control the rates, fees, and charges assessed for
6 water sold and waste collection and treatment services provided by
7 the district, the state pledges to and agrees with the holders of
8 district bonds that the state will not exercise its power to
9 regulate and control the rates, fees, and charges in any way that
10 would impair the rights or remedies of the holders of the bonds.
11 (Acts 65th Leg., R.S., Ch. 337, Sec. 15(e) (part).)

12 Source Law

13 (e) . . . [the rates, fees, and charges assessed
14 for water sold and waste collection and treatment
15 services rendered by the district] . . . Without in
16 any way depriving the State of Texas of its power to
17 regulate and control such rates, fees, and charges,
18 the State of Texas does hereby pledge to and agree with
19 the holders of any bonds issued hereunder that the
20 state will not exercise its power to regulate and
21 control such rates, fees, and charges in any way that
22 would impair the rights of remedies of the holders of
23 such bonds.

24 Revisor's Note

25 Section 15(e), Chapter 337, Acts of the 65th
26 Legislature, Regular Session, 1977, provides that the
27 state will not regulate and control the district's
28 rates, fees, and charges for water sold and waste
29 collection and treatment services in a way that
30 impairs the "rights of remedies" of the holder of a
31 district bond. The revised law substitutes "rights or
32 remedies" for "rights of remedies" because it is clear
33 from the context that "of" is a typographical error and
34 that the legislature intended to use the phrase
35 "rights or remedies."

36 Revised Law

37 Sec. 11007.209. USE OF BOND PROCEEDS. (a) The district may
38 set aside an amount of proceeds from the sale of district bonds for:

39 (1) the payment of interest expected to accrue during

1 construction not to exceed three years;

2 (2) a debt service reserve fund; and

3 (3) other funds as may be provided in the resolution
4 authorizing the bonds or in the trust indenture.

5 (b) The district may use proceeds from the sale of the bonds
6 to pay any expense necessarily incurred in accomplishing the
7 purpose of the district, including any expense of issuing and
8 selling the bonds. (Acts 65th Leg., R.S., Ch. 337, Sec. 15(f).)

9 Source Law

10 (f) From the proceeds from the sale of the
11 bonds, the district may set aside an amount for the
12 payment of interest expected to accrue during
13 construction not to exceed three years, a debt service
14 reserve and other funds as may be provided in the
15 resolution authorizing the bonds or in the trust
16 indenture. Proceeds from the sale of the bonds may also
17 be used for the payment of all expenses necessarily
18 incurred in accomplishing the purpose for which this
19 district is created, including expenses of issuing and
20 selling the bonds.

21 Revised Law

22 Sec. 11007.210. APPOINTMENT OF RECEIVER. (a) On default or
23 threatened default in the payment of the principal of or interest on
24 district bonds that are payable wholly or partly from revenue, a
25 court may, on petition of the holders of at least 25 percent of the
26 district's outstanding revenue bonds, appoint a receiver for the
27 district.

28 (b) The receiver may collect and receive all district
29 revenue, other than taxes, employ and discharge district agents and
30 employees, and take charge of money on hand, other than money
31 received from taxes, unless commingled, and/or hindrance by the
32 board.

33 (c) The receiver may be authorized to sell or contract for
34 the sale of water or the collection or treatment of waste or to
35 renew contracts, with the approval of the court that appointed the
36 receiver.

37 (d) The court may vest the receiver with any other power or
38 duty the court finds necessary to protect the bondholders. (Acts
39 65th Leg., R.S., Ch. 337, Sec. 15(g) (part).)

Source Law

(g) In the event of a default or a threatened default in the payment of principal of or interest on bonds payable wholly or partially from revenues, any court of competent jurisdiction may, upon petition of the holders of at least 25 percent of the district's outstanding revenue bonds, appoint a receiver with authority to collect and receive all revenues of the district, except taxes, employ and discharge agents and employees of the district, take charge of funds on hand, except funds received from taxes, unless commingled, and/or hindrance by the board. The receiver may also be authorized to sell or make contracts for the sale of water and the collection and treatment of waste and to renew contracts, with the approval of the court appointing him. The court may vest the receiver with other powers and duties as the court may find necessary for the protection of the holders of the bonds. . . .

Revisor's Note

(1) Section 15(g), Chapter 337, Acts of the 65th Legislature, Regular Session, 1977, refers to a court "of competent jurisdiction." The revised law omits the quoted language because the general laws of civil jurisdiction determine which courts have jurisdiction over the matter. For an example, see Section 24.003, Government Code, for the jurisdiction of certain courts to appoint receivers.

(2) Section 15(g), Chapter 337, Acts of the 65th Legislature, Regular Session, 1977, provides for the appointment of a receiver if the district defaults on district bonds and allows the receiver to collect and receive certain district revenue and to take charge of funds of the district "on hand, . . . and/or hindrance by the board." In context, it appears as though the phrase "and/or hindrance by the board" is a typographical error, since it is clear from a reading of the section and similar laws that "on hand, . . . without consent or hindrance by the board" was the phrase the legislature intended to include in the source law. However, the revised law preserves the likely typographical error in source law because the

1 source law is ambiguous and the ambiguity cannot be
2 resolved without potential substantive effect.

3 Revised Law

4 Sec. 11007.211. REFUNDING BONDS. (a) The district may
5 issue refunding bonds to refund outstanding district bonds and
6 interest on those bonds.

7 (b) Refunding bonds may:

8 (1) be issued to refund bonds of more than one series;

9 (2) combine the pledges for the outstanding bonds for
10 the security of the refunding bonds; or

11 (3) be secured by a pledge of other or additional
12 revenue or mortgage liens.

13 (c) The provisions of this subchapter regarding the
14 issuance of other bonds, their security, and the remedies of the
15 holders apply to refunding bonds.

16 (d) The comptroller shall register the refunding bonds on
17 the surrender and cancellation of the bonds to be refunded.

18 (e) Instead of issuing bonds to be registered on the
19 surrender and cancellation of the bonds to be refunded, the
20 district, in the resolution authorizing the issuance of the
21 refunding bonds, may provide for the sale of the refunding bonds and
22 the deposit of the proceeds in a bank at which the bonds to be
23 refunded are payable. In that case, the refunding bonds may be
24 issued in an amount sufficient to pay the principal of and interest
25 and any required redemption premium on the bonds to be refunded to
26 or through any redemption date or through or on their maturity date,
27 and the comptroller shall register the refunding bonds without the
28 surrender and cancellation of the bonds to be refunded.

29 (f) An election is not required to authorize the issuance of
30 refunding bonds.

31 (g) The district may also issue refunding bonds under any
32 other applicable law. (Acts 65th Leg., R.S., Ch. 337, Sec. 17.)

33 Source Law

34 Sec. 17. The district is authorized to issue

1 refunding bonds for the purpose of refunding any
2 outstanding bonds authorized by this Act and interest
3 on the bonds. The refunding bonds may be issued to
4 refund more than one series of outstanding bonds and
5 combine the pledges for the outstanding bonds for the
6 security of the refunding bonds, and may be secured by
7 other or additional revenues and mortgage liens. The
8 provisions of this Act with reference to the issuance
9 by the district of other bonds, their security, and
10 their approval by the attorney general and the
11 remedies of the holders shall be applicable to
12 refunding bonds. Refunding bonds shall be registered
13 by the comptroller upon surrender and cancellation of
14 the bonds to be refunded, but in lieu thereof, the
15 resolution authorizing their issuance may provide that
16 they shall be sold and the proceeds of the sale
17 deposited in the bank where the original bonds are
18 payable, in which case the refunding bonds may be
19 issued in an amount sufficient to pay all principal
20 coming due, all interest accruing, and any required
21 redemption premium, on the bonds being refunded to or
22 through any date upon which they are subject to
23 redemption prior to maturity, or through or at their
24 maturity date or dates, respectively, and the
25 comptroller shall register them without concurrent
26 surrender and cancellation of the original bonds. The
27 refunding bonds may be issued without having been
28 authorized at an election. Refunding bonds also may be
29 issued by the district pursuant to any other
30 applicable law.

31 Revisor's Note

32 Section 17, Chapter 337, Acts of the 65th
33 Legislature, Regular Session, 1977, refers to the
34 "approval by the attorney general" of refunding bonds.
35 The revised law omits the quoted language because it is
36 superseded by Section 1202.003, Government Code,
37 enacted in 1987 as Section 3.002(a), Chapter 53, Acts
38 of the 70th Legislature, 2nd Called Session (Article
39 717k-8, Vernon's Texas Civil Statutes). That section
40 applies to district bonds by application of Section
41 1202.001, Government Code.

42 Revised Law

43 Sec. 11007.212. OTHER REMEDIES AND COVENANTS. The
44 resolution authorizing the issuance of district bonds, including
45 refunding bonds, or the trust indenture securing the bonds, may
46 provide other remedies and covenants the board considers necessary
47 to issue the bonds on the most favorable terms. (Acts 65th Leg.,
48 R.S., Ch. 337, Sec. 15(h).)

1 Source Law

2 (h) The resolution authorizing the issuance of
3 any bonds authorized under this Act, including
4 refunding bonds, or the trust indenture securing such
5 bonds, may also provide such other remedies and
6 contain such covenants as the board shall deem
7 necessary to issue its bonds upon the most favorable
8 terms.

9 Revised Law

10 Sec. 11007.213. LIMITATION ON RIGHTS OF BONDHOLDERS. The
11 resolution authorizing the bonds or the trust indenture securing
12 the bonds may limit or qualify the rights of the holders of less
13 than all of the outstanding bonds payable from the same source to
14 institute or prosecute litigation affecting the district's
15 property or income. (Acts 65th Leg., R.S., Ch. 337, Sec. 15(g)
16 (part).)

17 Source Law

18 (g) . . . The resolution authorizing the
19 issuance of the bonds, or the trust indenture securing
20 them, may further limit or qualify the rights of the
21 holders of less than all of the outstanding bonds
22 payable from the sale source to institute or prosecute
23 litigation affecting the district's property or
24 income.

25 Revisor's Note

26 Section 15(g), Chapter 337, Acts of the 65th
27 Legislature, Regular Session, 1977, provides for a
28 resolution limiting or qualifying the rights of
29 holders of certain bonds payable from the "sale
30 source." The revised law substitutes "same" for
31 "sale" because it is clear from the context that "sale"
32 is a typographical error and that the legislature
33 intended to use the word "same."

34 Revised Law

35 Sec. 11007.214. BONDS EXEMPT FROM TAXATION. A district
36 bond, the transfer of the bond, and the income from the bond,
37 including profits made on the sale of the bond, are exempt from
38 taxation in this state. (Acts 65th Leg., R.S., Ch. 337, Sec. 22
39 (part).)

1 Source Law

2 Sec. 22. . . . the bonds issued hereunder and
3 their transfer and the income therefrom, including the
4 profits made on the sale, shall at all times be free
5 from taxation within this state.

6 Revisor's Note
7 (End of Subchapter)

8 (1) Section 15(b), Chapter 337, Acts of the 65th
9 Legislature, Regular Session, 1977, provides that
10 district bonds may be sold at a price and under terms
11 that the board determines are the most advantageous
12 reasonably obtainable. The revised law omits that
13 provision because it is superseded by general law.
14 Section 1201.022, Government Code, as amended in 2001,
15 provides that an issuer may sell public securities
16 "under the terms determined by the governing body of
17 the issuer to be in the issuer's best interests."
18 Section 1201.022 applies to district bonds by
19 application of Section 1201.002, Government Code. The
20 omitted law reads:

21 (b) . . . [The bonds] . . . may be
22 sold at a price and under terms determined
23 by the board to be the most advantageous
24 reasonably obtainable. . . .

25 (2) Section 15(b), Chapter 337, Acts of the 65th
26 Legislature, Regular Session, 1977, provides that
27 district bonds may be redeemed before maturity at the
28 time and price specified in the bonds. The revised law
29 omits that provision because it duplicates in
30 substance Sections 1201.021 and 1201.022, Government
31 Code, which provide that a public security may be
32 redeemed before maturity and be payable in specified
33 amounts and at specified times. Those sections apply
34 to district bonds by the application of Sections
35 1201.002 and 1201.003, Government Code. The omitted
36 law reads:

37 (b) . . . Within the discretion of
38 the board, such bonds may be made callable

1 prior to maturity at times and prices
2 prescribed in the bonds, and

3 (3) Section 15(b), Chapter 337, Acts of the 65th
4 Legislature, Regular Session, 1977, provides that
5 district bonds may be registered as to principal or as
6 to principal and interest. The revised law omits that
7 provision because it duplicates in substance Section
8 1201.024(a)(3), Government Code. That section applies
9 to district bonds by the application of Sections
10 1201.002 and 1201.003, Government Code. The omitted
11 law reads:

12 (b) . . . [such bonds] . . . may be
13 made registrable as to principal or as to
14 both principal and interest.

15 (4) Section 18, Chapter 337, Acts of the 65th
16 Legislature, Regular Session, 1977, requires the
17 district to deliver its bonds to the attorney general
18 for examination and approval. The revised law omits
19 that provision because it duplicates in substance
20 Section 1202.003, Government Code. Section 1202.003,
21 Government Code, applies to district bonds by
22 application of Section 1202.001, Government Code. The
23 omitted law reads:

24 Sec. 18. After any bonds, including
25 refunding bonds, are authorized by the
26 district, the bonds and the proceedings
27 relating to their issuance shall be
28 submitted to the attorney general for his
29 examination as to their validity. . . . If
30 he finds that the bonds have been authorized
31 and . . . in accordance with the
32 constitution and laws of the State of Texas,
33 he shall approve the bonds and

34 (5) Section 18, Chapter 337, Acts of the 65th
35 Legislature, Regular Session, 1977, provides that,
36 after approval, the bonds shall be registered with the
37 comptroller. The revised law omits that provision as
38 superseded by Section 3.002(c), Chapter 53, Acts of
39 the 70th Legislature, 2nd Called Session, 1987, now
40 revised as Section 1202.005, Government Code. Section

1 1202.005, Government Code, applies to district bonds
2 by application of Section 1202.001, Government Code.

3 The omitted law reads:

4 Sec. 18. . . . [he shall approve the
5 bonds and] . . . the bonds then shall be
6 registered by the comptroller of public
7 accounts. . . .

8 (6) Section 18, Chapter 337, Acts of the 65th
9 Legislature, Regular Session, 1977, provides that,
10 after approval and registration, district bonds are
11 incontestable and binding obligations. The revised
12 law omits that provision as impliedly repealed by
13 Section 3.002(d), Chapter 53, Acts of the 70th
14 Legislature, 2nd Called Session, 1987, now revised as
15 Section 1202.006, Government Code. Section 1202.006,
16 Government Code, provides that after approval and
17 registration, bonds are incontestable. Section
18 1202.006 applies to district bonds by application of
19 Section 1202.001, Government Code. The omitted law
20 reads:

21 Sec. 18. . . . Thereafter the bonds,
22 and . . . are valid and binding obligations
23 in accordance with their terms for all
24 purposes, and are incontestable in any
25 court, or other forum, for any reason.

26 (7) Section 18, Chapter 337, Acts of the 65th
27 Legislature, Regular Session, 1977, details various
28 procedures regarding approval of bond contracts and
29 proceedings by the attorney general. The revised law
30 omits the portion of Section 18 regarding the validity
31 and incontestability of a contract the revenues or
32 proceeds of which are pledged to the payment of a bond
33 as impliedly repealed by Section 3.002(d), Chapter 53,
34 Acts of the 70th Legislature, 2nd Called Session,
35 1987, now revised as Section 1202.006, Government
36 Code. Section 1202.006, Government Code, provides
37 that after approval and registration of the bond, the

1 bond and contract are incontestable. Section 1202.006
2 applies to district bonds by application of Section
3 1202.001, Government Code. The omitted law reads:

4 Sec. 18. . . . If the bonds recite
5 that they are secured by a pledge of the
6 revenues or proceeds of a contract
7 previously made between the district and
8 any city, or other public agency or
9 political subdivision, or other entity, a
10 copy of the contract and the proceedings of
11 the city or other public agency or political
12 subdivision, or other entity, authorizing
13 the contract also may be submitted to the
14 attorney general. [If he finds that] . . .
15 the contracts have been made [in accordance
16 with the constitution and laws of the State
17 of Texas, he shall approve] . . . the
18 contracts, and [Thereafter] . . .
19 the contracts, if any, [are valid and
20 binding obligations in accordance with
21 their terms for all purposes, and are
22 incontestable in any court, or other forum,
23 for any reason.]

24 (8) Section 20, Chapter 337, Acts of the 65th
25 Legislature, Regular Session, 1977, lists the entities
26 for which district bonds are legal investments and
27 provides that district bonds may secure deposits of
28 public funds of the state or political subdivisions.
29 The revised law omits the provision relating to the
30 eligibility of district bonds to be considered as
31 investments for various entities because it duplicates
32 in substance Section 49.186(a), Water Code. The
33 revised law omits the provision relating to deposits
34 of state funds by the comptroller as impliedly
35 repealed by Section 404.0221, Government Code (enacted
36 in 1995), which lists eligible collateral for deposits
37 of state funds by the comptroller, and by Chapter 240,
38 Acts of the 69th Legislature, Regular Session, 1985,
39 the relevant part of which is now revised as Section
40 404.031, Government Code, which provides for the
41 valuation of that collateral. As to deposits of other
42 funds, the provision is impliedly repealed by Chapter
43 627, Acts of the 71st Legislature, Regular Session,

1 1989, now revised as Chapter 2257, Government Code,
2 which governs eligible collateral for deposits of
3 funds of other public agencies, including political
4 subdivisions, and permits those deposits to be secured
5 by obligations issued by conservation and reclamation
6 districts. The omitted law reads:

7 Sec. 20. All bonds of the district
8 are legal and authorized investments for
9 banks, savings banks, trust companies,
10 building and loan associations, insurance
11 companies, fiduciaries, trustees, and for
12 the sinking fund of cities, towns,
13 villages, counties, school districts, or
14 other political corporations or
15 subdivisions of the State of Texas. The
16 bonds are eligible to secure the deposit of
17 any and all public funds of the State of
18 Texas, and any and all public funds of
19 cities, towns, villages, counties, school
20 districts, or other political corporations
21 or subdivisions of the State of Texas, and
22 the bonds are lawful and sufficient
23 security for these deposits to the extent of
24 their value, when accompanied by all
25 unmatured coupons appurtenant thereto.

26 Revisor's Note
27 (End of Chapter)

28 (1) Section 5, Chapter 337, Acts of the 65th
29 Legislature, Regular Session, 1977, provides that an
30 election to confirm the creation of the district must
31 be held before the district may issue any bonds or
32 other obligations. The revised law omits that
33 provision as executed because the district has issued
34 bonds, and any confirmation election would have been
35 held. The omitted law reads:

36 Sec. 5. Before issuing any bonds or
37 other obligations, an election shall be
38 held within the boundaries of the proposed
39 district to determine if the proposed
40 district shall be established; such
41 election and notice thereof shall be held
42 and given in the manner provided by Chapter
43 54 of the Water Code.

44 (2) Section 21, Chapter 337, Acts of the 65th
45 Legislature, Regular Session, 1977, provides in part
46 that the act is sufficient authority for the issuance
47 of bonds, the execution of contracts and conveyances,

1 and the performance of other authorized acts by the
2 district and all other public agencies, without
3 reference to any other law or any restrictions or
4 limitations contained in another law, except as
5 specifically provided by the act.

6 The revised law omits the statement that the act
7 is sufficient authority for the performance of acts
8 authorized by the act because it is unnecessary. The
9 operative provisions of the act are fully effective on
10 their own terms.

11 The revised law omits the statement that other
12 laws or restrictions or limitations contained in those
13 laws do not apply because it is both unnecessary and
14 potentially misleading. An accepted general principle
15 of statutory construction requires a statute to be
16 given cumulative effect with other statutes unless it
17 provides otherwise or unless the statutes are in
18 conflict. To the extent the statement means that the
19 act prevails over other law in existence at the time
20 the act became effective and with which the act
21 conflicts, it merely restates general rules of
22 statutory construction. To the extent the statement
23 means the act prevails over future enactments of the
24 legislature that may conflict with it, it is
25 misleading. Section 311.026, Government Code (Code
26 Construction Act), governs the interpretation of the
27 revised law in instances of apparent conflict with
28 other laws.

29 Finally, codification of the statement is
30 potentially misleading because the revised law not
31 only omits provisions of the act that are impliedly
32 repealed by other law, it also omits provisions that
33 are duplicative of other law. Codification of the
34 statement might create an impression that the

1 provisions of other law that duplicate the omitted
2 provisions do not apply.

3 Section 21 also provides that the district and
4 all other public agencies and political subdivisions
5 may use the provisions of other laws that do not
6 conflict with the act to carry out any power granted by
7 the act. The revised law omits that provision as
8 unnecessary. The operative provisions of other
9 applicable laws are fully effective on their own
10 terms. The omitted law reads:

11 Sec. 21. This Act shall be wholly
12 sufficient authority within itself for the
13 issuance of the bonds, the execution of
14 contracts, and conveyances, and the
15 performance of the other acts and
16 procedures authorized in this Act by the
17 district, and all other public agencies and
18 political subdivisions, without reference
19 to any other law or any restrictions or
20 limitations contained therein, except as
21 specifically provided in this Act. The
22 district, and all other public agencies and
23 political subdivisions, may use the
24 provisions of any other laws, not in
25 conflict with the provisions, to the extent
26 convenient or necessary to carry out any
27 power or authority, express or implied,
28 granted by this Act.

29 (3) Section 23, Chapter 337, Acts of the 65th
30 Legislature, Regular Session, 1977, provides that the
31 act is severable. The revised law omits that provision
32 because it duplicates in substance Section 311.032,
33 Government Code (Code Construction Act), which states
34 that a provision of a statute is severable from each
35 other provision of the statute that can be given
36 effect. The omitted law reads:

37 Sec. 23. If any word, phrase, clause,
38 paragraph, sentence, part, portion, or
39 provision of this Act or the application
40 thereof to any person or circumstance shall
41 be held to be invalid or unconstitutional,
42 the remainder of this Act shall
43 nevertheless be valid, and the Legislature
44 hereby declares that this Act would have
45 been enacted without such invalid or
46 unconstitutional word, phrase, clause,
47 paragraph, sentence, part, portion, or
48 provision. . . .

1 (4) Section 24, Chapter 337, Acts of the 65th
2 Legislature, Regular Session, 1977, contains
3 legislative findings related to the performance of
4 certain requirements under Section 59, Article XVI,
5 Texas Constitution. The revised law omits that
6 provision as executed. The omitted law reads:

7 Sec. 24. It is determined and found
8 that a proper and written notice of the
9 intention to introduce this Act setting
10 forth the general substance of this Act has
11 been published at least 30 days and not more
12 than 90 days prior to the introduction of
13 this Act in the Legislature of the State of
14 Texas in a newspaper having a general
15 circulation in the county in which the
16 district is located; that a copy of such
17 notice and a copy of this Act have been
18 delivered to the Governor of Texas who has
19 submitted such notice and Act to the Texas
20 Water Rights Commission, and said Texas
21 Water Rights Commission has filed its
22 recommendations as to this Act with the
23 governor, lieutenant governor, and speaker
24 of the house of representatives within 30
25 days from the date such notice and Act were
26 received by the Texas Water Rights
27 Commission; and that all the requirements
28 and provisions of Article XVI, Section 59d,
29 of the Texas Constitution, have been
30 fulfilled and accomplished as herein
31 provided, and that any applicable
32 requirements and provisions of Article XVI,
33 Section 59e, of the Texas Constitution,
34 have been fulfilled and accomplished.